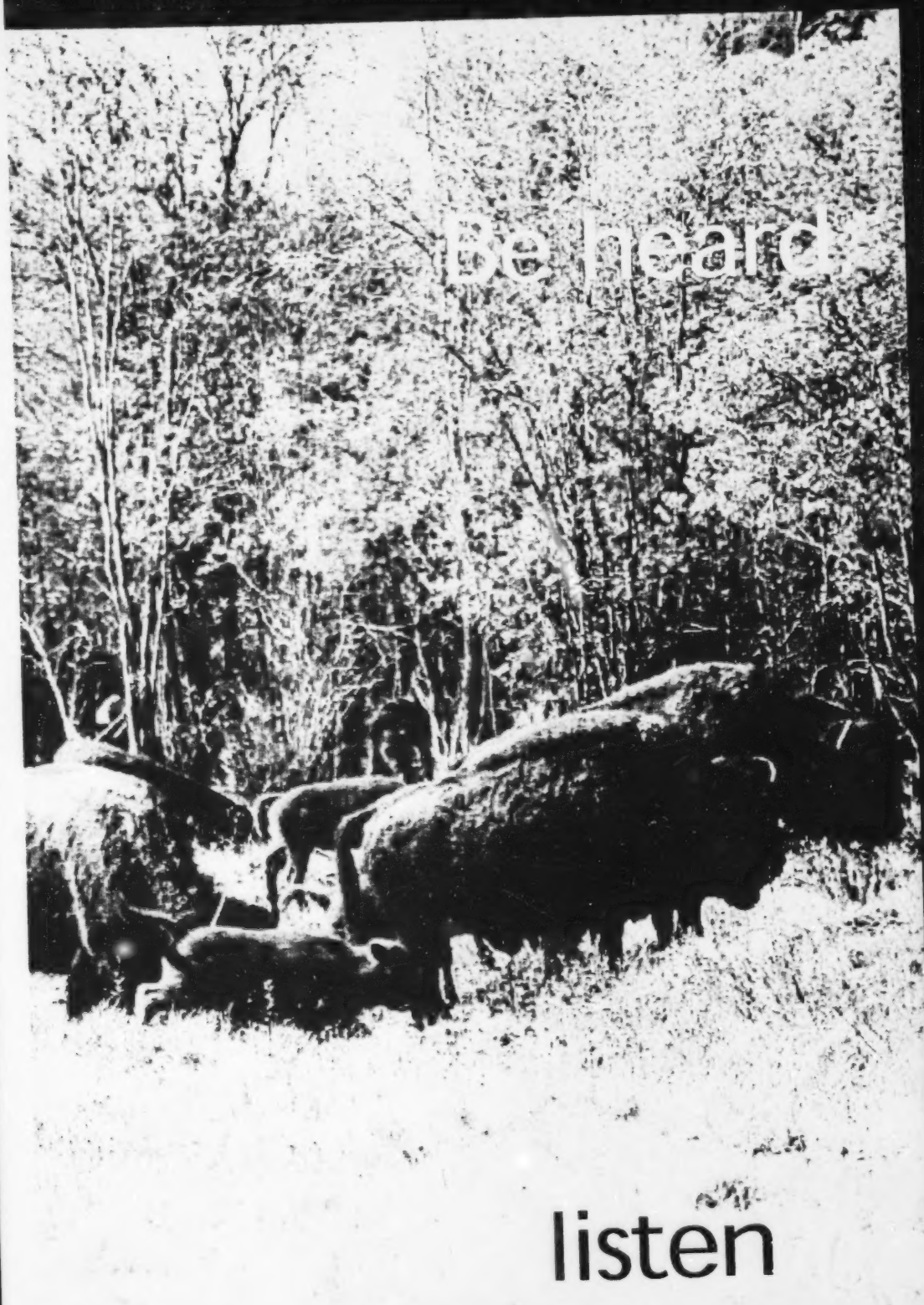
Protecting Species at Risk in the NWT



As part of a cooperative effort, the GNWT is committed to introducing new legislation to protect species at risk in the NWT.

We invite your full participation in this process.

Northwest Territories Resources, Wildlife and Economic Development

Although there are several success stories linked to the recovery and conservation of species in the NWT, the Wood Bison was chosen for our NWT Species at Risk logo. It represents the accomplishments of conservation efforts of northerners in the continued recovery of this precious species.

Historically, wood bison ranged throughout the boreal forest of northern Alberta, northeastern British Columbia, southwestern NWT, the Yukon and central Alaska. Today the majority of free-roaming wood bison populations are found in the NWT.

During the 1920s, more than 6,000 plains bison were transferred from Wainwright Buffalo Park in central Alberta to Wood Buffalo National Park. Unfortunately those introduced bison were infected with bovine brucellosis and tuberculosis.

By 1940, it was feared that wood bison had disappeared as a subspecies as a result of interbreeding with plains bison. However, in 1957 federal wildlife officials discovered a herd of pure wood bison in the Nyarling River area of the park. In 1963, 18 animals were captured and released in the Mackenzie Bison Sanctuary. These animals founded the Mackenzie herd, which has grown to about 1,900 animals. The Mackenzie herd is the world's largest free-ranging herd of disease-free wood bison.

Management and conservation of wood bison in the NWT will require continued support and input from local communities and the general public. Efforts to keep existing herds disease-free will continue as will research into bison habitat and ecology.

The GNWT will continue to work towards developing options for resolving the issue of diseased herds as well as developing long term objectives for reintroducing healthy bison to their former range.

Cover Photo: Jiri Hermann

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Forward

Message from the Minister

Biodiversity - the variety of species and ecosystems on earth – supports our human societies ecologically, economically, culturally and spiritually. But, as many as 50 percent of the earth's species may disappear within the next 100 years. The pace of environmental deterioration and the number of species facing extinction may vary between ecosystems, but the decline of species is a global phenomenon.

Canada currently has 338 species on its list of species at risk. Southern regions, where the human population is greatest, are under the most pressure but the sensitive ecosystems of northern regions may be even more susceptible to damage and change due to human pressures.

In 1992, at the United Nations Conference on Environment and Development in Rio de Janeiro, world leaders formally recognized the importance of biodiversity to the quality of life on earth. Faced with the seriousness of the global decline in biodiversity, one hundred and seventy nine states present at the Rio Conference negotiated the *United Nations Convention on Biological Diversity*. World leaders agreed to develop national strategies to conserve and use biological diversity in a sustainable manner, and make these strategies part of overall national development strategies.

In response, Canada has developed a Canadian Biodiversity Strategy. One of the cornerstones of this Strategy is a new national approach to the conservation of species at risk that includes new federal, provincial and territorial legislation on species at risk. Federal, provincial and territorial Ministers responsible for wildlife demonstrated their commitment to this national approach by adopting an *Accord for the Protection of Species at Risk in Canada* aimed at preventing species in Canada from becoming extinct as a consequence of human activity.

As part of this cooperative effort, the GNWT intends to introduce new legislation to protect species at risk in the NWT. The purpose of this discussion paper is to solicit public views on what approach the GNWT should take to protect and conserve NWT species.

This paper describes a number of elements that we propose to include in the new legislation. I invite comments on any of the thoughts in this paper. In particular, public feedback is sought on the various options identified throughout the paper.

"The GNWT intends to introduce new legislation to protect species at risk in the NWT."

"This paper describes a number of elements that we propose to include in the new legislation."

NWT Species at Risk

we are listening.

I encourage you to review this document and offer your thoughts on species at risk legislation for the Northwest Territories.

At the back of this document you will find a comment sheet to help you respond to issues raised in this paper. Please fill in the sheet and return it with any other comments or suggestions to your local Resources, Wildlife and Economic Development Office or send it to:

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"Public feedback is sought on the various options identified throughout the paper."

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Stephen Kakfwi
Minister
Resources, Wildlife and Economic Development

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Protecting Species at Risk in the NWT

A Discussion Paper Summary

1. Why Do We Need Species at Risk Legislation?

The Northwest Territories (NWT) is blessed with an abundance of wildlife. Our forests and mountains are home to big game animals such as caribou, Dall's sheep, bison, bears and moose. Our forests also provide habitat for furbearers including lynx, fox, beaver, marten, muskrat, and a host of other species. Caribou, muskox, wolves, arctic fox, polar bears and grizzly bears inhabit the barrenlands. Over 200 bird species breed and stage in the NWT. Some of our wildlife species, such as the Peary caribou, are found only in the NWT or Nunavut.

Although most wildlife species in the NWT are thriving, a few species are not doing as well. The NWT has seven species listed as endangered or threatened by the Committee on the Status of Endangered Wildlife in Canada (COSEWiC). COSEWIC has identified another eleven species in the NWT as being at a lower level of risk.

The protection of species at risk is the responsibility of all Canadians. The Government of the Northwest Territories (GNWT) has been working with other Canadian jurisdictions and the federal government to develop a national program to protect all species in Canada from becoming extinct as a result of human actions. The federal government has committed to tabling new federal legislation this winter to protect species at risk.

The NWT has agreed in principle to the *Accord for the Protection Species at Risk in Canada*. In fulfillment of some of our responsibilities under the *Accord*, the GNWT has committed to introducing new legislation to protect species at risk in the NWT. Species at risk legislation will form the basis for protection and recovery planning for wildlife species in the NWT. New legislation and programs will complement national initiatives outlined in the *Accord* but will apply within the boundaries of the Northwest Territories.

"Species at risk legislation will form the basis for protection and recovery planning for wildlife species in the NWT."

NWT Species at Risk

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GNWT Department of Resources, Wildlife and Economic Development

2. Who Should Be Involved in Developing and Implementing Species at Risk Legislation?

Although the legislative responsibility for protection of species rests with government, species conservation requires concerted efforts by everyone. Governments cannot do it alone.

"The GNWT welcomes the input of all NWT residents in the development of this species at risk legislation."

In some parts of the NWT we have developed a unique system of co-management for our wildlife species. Co-management boards, established through land claims, have important responsibilities for wild species and their habitats. The GNWT will work in partnership with co-management boards to develop and implement NWT species at risk legislation. In those areas without co-management boards, GNWT will work closely with Aboriginal organizations to ensure their concerns are addressed.

There are other stakeholders who also have a sincere interest in the future of species that may be at risk or who may be affected by the implementation of species at risk legislation. The GNWT welcomes the input of all NWT residents in the development of this species at risk legislation.

The new legislative framework will forge a new partnership between users, stakeholders and government in the management and protection of species at risk. Throughout the process, consideration will be given to traditional and local knowledge.

3. Which Species Should be Covered by the Legislation?

There are several options for how broad the scope of the new NWT species at risk legislation should be, bearing in mind our responsibilities are shared with the federal government and land claim organizations. It will not apply to fish, migratory birds or marine mammals that fall under federal jurisdiction. Nor will it include domestic animals, or wildlife whose range does not naturally include the NWT.

NWT Species at Risk

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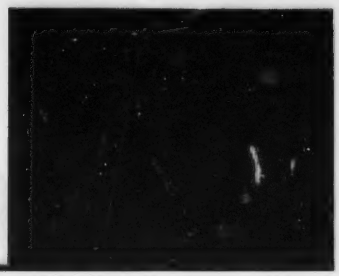

Options

However, legislation could:

- be limited to game species such as big game, small game and fur-bearing animals;
- apply to all vertebrates;
- be extended to include other wild organisms such as invertebrates, plants, fungi, algae and bacteria; or
- be extended to apply to entire ecosystems at risk.

4. Who Should Determine the Status of Species at Risk in the NWT?

The new species at risk legislation should establish who will determine the status of species at risk. In following the national model, it could include provisions to establish a Species at Risk Committee (SARC) to assess the status of species at risk in the NWT.

The SARC could be a multi-disciplinary committee that would use scientific, traditional and local knowledge. SARC's role in assessing species at risk within the NWT could parallel the new COSEWIC system for assessing status of species at risk nationally. Under such a system SARC could work with other experts and partners to:

- develop criteria to categorize species at risk in the NWT;
- review monitoring data for NWT species to determine if a condition of risk exists;
- independently assess the biological status of wild species believed to be at risk in the NWT using the best available scientific information and traditional or community knowledge;
- designate the level of risk of extinction based on biological status by listing, downlisting, or removing species from the list of species at risk in the NWT;
- publish the list of species at risk in the NWT on an annual basis;
- provide the listing and associated status report to the Minister and the co-management boards.

The Department of Resources, Wildlife and Economic Development could provide administrative support to SARC.

"The Species at Risk Committee could be a multi-disciplinary committee that would use scientific, traditional and local knowledge."

NWT Species at Risk

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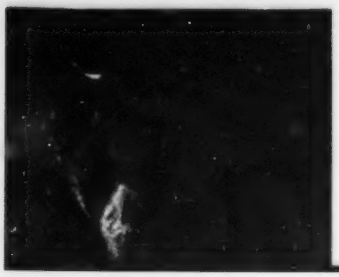

5. Which Species are at Risk?

The first step in protecting species at risk is to assess which species are at risk and what level of risk they face. The new legislation should establish a set of risk categories and criteria to use in assessing the status of wildlife species. There are a number of options for risk categories and criteria based on systems already developed by other national or international agencies. For example, the International Union for the Conservation of Nature (IUCN) has established risk categories which range from Least Concern to Extinct. The IUCN has been rating species at risk for more than 30 years and have classified more than 15,000 species using this system.

"New legislation should establish a set of risk categories and criteria to use in assessing the status of wildlife species."

Options

The NWT could:

- adopt risk categories and criteria currently used by other organizations; or
- develop a new set of categories and criteria unique to the NWT.

6. How Should We Protect Species at Risk?

In the *Accord*, the NWT has agreed to provide immediate legal protection for species that are threatened or endangered. The new legislation could include provisions for immediate steps to be taken as soon as a species is listed. This could include immediate protection from killing, harming, possessing, and trafficking. There may be some exceptions that could also be identified in the new legislation.

Any broad prohibitions would have to respect the constitutionally protected arrangements established under self-government and land claim agreements. Prohibitions may not necessarily apply to activities undertaken in the exercise of existing Aboriginal or treaty rights, or in accordance with regulatory or conservation measures for wildlife species under an Aboriginal treaty, land claims agreement, self-government agreement, or co-management agreement. Most land claim agreements, however, do establish beneficiaries' rights as subject to the limitations of conservation.

As a first step, the Director of Wildlife and Fisheries could establish an *ad hoc* working group with representation from management boards to rapidly identify a set of initial priorities for response within the NWT. This would help ensure that recovery balances the needs of the species with the socioeconomic and cultural needs of the affected committees.

NWT Species at Risk

7. What Level Of Protection Should Be Provided For Habitats Important To Species At Risk?

Under the *Accord* we are committed to protect not only species at risk but also their essential habitat, to the extent possible. Unlike the provinces, which own and administer crown lands within their borders, most lands in the NWT are owned by the Government of Canada. The unique legal framework in the NWT may require that formal co-operative mechanisms be established between the GNWT and the Government of Canada to ensure protection of the habitat of species at risk.

NWT species at risk legislation could include provisions for protection of habitat that is essential to species at risk. It would also play a critical role in the legislative framework necessary to implement the Protected Areas Strategy.

Options

There are several options for what level of habitat protection should be provided in the legislation. Legislation could:

- apply only to residences (e.g. dens, hibernaculums, and nests);
- include critical habitat areas (e.g. limited winter ranges, concentrated calving areas, or restricted breeding areas); or
- extend to endangered or threatened ecosystems (e.g. as protected areas or ecological reserves).

Activities posing a threat to a species or its habitat could be regulated under species at risk legislation. For example, the legislation could require that any development project that might affect species at risk be subject to an environmental assessment that takes special account of all potential impacts on species at risk and their habitats.

The new legislation could include provisions to establish a new category of protected area to enable resource management boards and government agencies to establish terms and conditions on human activities on particular habitats. This new category of protected area could be called a Species at Risk Conservation Area (SARCA) and the terms and conditions governing human activities in this new type of conservation area could be established through a SARCA Permit. For example, a permit might restrict the use of vehicles, including all-terrain vehicles, in essential habitat areas. Restrictions might apply only at certain times. For example, a permit might restrict human activities near nesting areas during certain times of the year.

"Activities posing a threat to a species or its habitat could be regulated under species at risk legislation."

NWT Species at Risk

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8. How Should We Help Species at Risk Recover?

The new legislation should include provisions for the recovery of species at risk. The legislation could authorize the Minister of Resources, Wildlife and Economic Development to initiate a recovery planning process once a species is listed.

The recovery process could include:

- consultation with wildlife management boards and other regulatory authorities;
- appointing a Recovery Team;
- developing a strategy to provide general direction for more specific management plans.

"The effective recovery of species at risk in the Northwest Territories could require the application of unique habitat protection measures."

The Minister would seek formal agreement on any recovery strategy from affected wildlife management boards and other agencies, including local resource user groups and the private sector where applicable. This would provide a mechanism to ensure continuing participation of these groups in the recovery process.

There are a large number of stakeholders who could be affected by recovery actions. The participation of affected stakeholders in species recovery would be seen as not only desirable but essential to successful recovery. Therefore, in addition to experts and representatives of management authorities, Recovery Teams could include other participants. Such partnerships could provide additional opportunities to modify human impacts on species and habitats at risk and to fund recovery actions.

The legislation could also empower the Minister to determine what course of action, if any, to take after reviewing the recovery strategy. The Minister could choose to direct the Recovery Team to initiate detailed planning and implementation of approved recovery efforts. Under circumstances where recovery would not be biologically or ecologically feasible, or when social or economic costs greatly outweighed the benefits of species recovery, the Minister could chose to not act to recover the species.

The effective recovery of species at risk in the Northwest Territories could require the application of unique habitat protection measures. There are a variety of existing mechanisms for protecting habitats in the NWT, such as National Wildlife Areas, federal parks, territorial parks and critical habitats but these are not specifically designed to meet all the needs of species at risk.

NWT Species at Risk

9. How Is Stewardship Part Of Our Process?

Stewardship is voluntary action by individual landowners to conserve wildlife habitat on their lands. Stewardship and collaborative planning and implementation could be guiding principles of the recovery process in the NWT. Stewardship is practiced as a personal commitment to safeguard natural resources and the functioning of ecosystems. This ethic is a strong tradition among people in northern Canada and could be reflected in the preparation and implementation of recovery plans.

Options

Options to promote stewardship include:

- continue with the status quo – any existing stewardship initiative of individuals or groups would continue and could contribute to the conservation of species at risk; or
- evaluate the full range of possible incentives to encourage stewardship through public discussions and select appropriate incentives and programs. Resource management boards and land use planning boards could have a vital role in the development and implementation of this option.

"Stewardship is voluntary action by individual landowners to conserve wildlife habitat on their lands."

10. How Can We Prevent Species From Becoming At Risk?

a) Monitor and Identify Problems Early

As part of the national program to protect species at risk in Canada, jurisdictions have agreed to monitor and report on the general status of wild species every five years, beginning in 2000. The five year status report produced for the NWT could also be used by SARC to monitor the status of species within the NWT over time, to highlight the need for corrective actions before species at risk experience increased threats, and to prioritize the need for species status reports. The new legislation should include provisions to implement these processes.

b) Conservation Education

Protecting and conserving species at risk is a responsibility shared by all residents of the NWT. The more informed and aware residents are about wildlife and wildlife habitats, the more likely that they will behave in ways that benefit species that may be at risk. Conservation education could play a major role in encouraging stewardship activities and reducing actions that may place species in danger.

NWT Species at Risk

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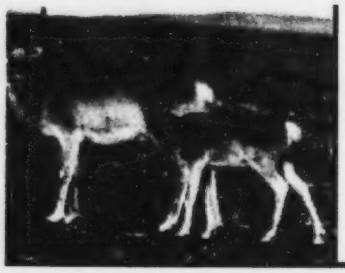

c) Good Management Planning for Species of Lower Risk
While five year monitoring may ring an early alarm bell, managers need to react to the bell and undertake further studies to highlight factors that may be causing the problem. Early measures to protect habitat, reduce disturbance or reduce mortality may prevent a species from becoming further at risk.

"As we look beyond the beginning of the new millennium, the GNWT remains committed to continuing its efforts to ensure the effective conservation of species at risk."

11. How Should Compliance Be Maintained?

The proposed legislation should provide powers to protect species at risk and ensure compliance with the special measures necessary for recovery. One aspect the legislation should address is the issue of intent.

Options

For example, offences and penalties could apply:

- only where harm is wilfully caused; or
- to all acts causing harm even when harm is not intended i.e. with no requirement for the government to prove there was intent to cause harm.

The legislation could also include provisions to enable first nations, co-management bodies and other stakeholders to ensure that the government is meeting its obligations with respect to the protection of species at risk.

Options

To provide opportunities for citizens to ensure compliance and enforcement the legislation could include provision for:

- investigations into the activities of either government or private parties upon citizen request, to determine compliance or enforcement of the legislation; or
- use of an independent, qualified mediator to review enforcement or compliance and submit binding recommendations to the Minister.

NWT Species at Risk

12. What Next?

The Government of the Northwest Territories recognizes its role as a leader in the conservation of species at risk now and in the future. But our successes in the conservation of wild species in the NWT are due, in no small part, to the efforts of individuals, community based organizations including Hunters' and Trappers' Organizations, non-government organizations and resource management boards.

As we look beyond the beginning of the new millennium, the GNWT remains committed to continuing its efforts to ensure the effective conservation of species at risk. We invite your full participation in this process.

Please contact your local ***Resources, Wildlife and Economic Development Office*** if you:

- ▶ would like more information about the proposed species at risk legislation;
- ▶ have questions about anything in this paper; or
- ▶ would like to comment on any aspect of this paper or the proposed legislation.

or contact:

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